

Assembly Bill No. 953

Passed the Assembly August 16, 2010

Chief Clerk of the Assembly

Passed the Senate August 9, 2010

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2010, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 1808.22 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 953, Eng. Department of Motor Vehicles: records: confidentiality.

Existing law requires the residence address in a record of the Department of Motor Vehicles to be kept confidential, with specified exceptions. One exception applies to an insurance company when the company requests the information for the purpose of obtaining the address of another motorist or vehicle owner involved in an accident with the company's insured.

This bill would expand this exception to include an authorized contractor acting on behalf of an insurance company pursuant to a contractual agreement. This bill would require that, among other things, all information obtained from the department by an authorized contractor of an insurance company be subject to the use or disclosure limitations and data security requirements that exist for any principal under applicable state and federal law. The bill would require an insurance company to be responsible for any misuse of the information by the contractor. The bill would also subject the contractor to, among other things, the requirement that the information obtained from the department be destroyed once the contractor has used the information for the authorized purpose.

The people of the State of California do enact as follows:

SECTION 1. Section 1808.22 of the Vehicle Code is amended to read:

1808.22. (a) Section 1808.21 does not apply to a financial institution licensed by the state or federal government to do business in the State of California, if the financial institution states under penalty of perjury that it has obtained a written waiver of Section 1808.21 signed by the individual whose address is requested, or to providing the address of a person who has entered

into an agreement held by that institution prior to July 1, 1990, so long as that agreement remains in effect.

(b) (1) Section 1808.21 does not apply to an insurance company licensed to do business in California, or to an authorized contractor acting on behalf of that insurance company, pursuant to a contractual agreement, if the company or contractor, under penalty of perjury, requests the information for the purpose of obtaining the address of another motorist or vehicle owner involved in an accident with the company's insured.

(2) Section 1808.21 does not apply to an insurance company licensed to do business in California if the company, under penalty of perjury, requests the information on an individual who has signed a written waiver of Section 1808.21 or on the individuals insured under a policy if a named insured of that policy has signed a written waiver.

(c) (1) Notwithstanding any other provisions of the Vehicle Code and regulations adopted by the department, all information obtained from the department pursuant to the exemptions in subdivision (b) shall be subject to the existing use or disclosure limitations and data security requirements for the principal under applicable state and federal law.

(2) Use or disclosure limitations and data security requirements imposed on an authorized contractor by this subdivision shall be enforced by the department in compliance with its existing regulations governing the use or disclosure of information obtained from the department pursuant to subdivision (b).

(3) The use or disclosure of information obtained from the department by an authorized contractor of the insurance company pursuant to paragraph (1) of subdivision (b) shall be permitted only for the purpose of obtaining the address of another motorist or vehicle owner involved in an accident with the company's insured. The information shall not be used or disclosed for any other purpose, other than the reason for which the information was requested, or to any other person.

(4) An insurance company shall be responsible for any misuse of the information by the authorized contractor.

(5) An authorized contractor is subject to all of the following requirements:

(A) All information obtained by the contractor from the department pursuant to paragraph (1) of subdivision (b), and any

copies made of that information, shall be destroyed by the contractor pursuant to Section 1798.81 of the Civil Code, once the contractor has used the information for the purpose of obtaining the address of a motorist or vehicle owner involved in an accident with individuals insured with the insurer.

(B) The contractor shall not sell the information obtained from the department or store, combine, or link that information with a database for resale or for any purpose other than obtaining the address of a motorist or vehicle owner involved in an accident with individuals insured with the insurer.

(C) The contractor shall maintain a log to track the receipt, use, and dissemination of the information. The log shall be immediately available to the department upon request and maintained for four years from the date of the request.

(D) The contractor shall maintain a surety bond in the amount of fifty thousand dollars (\$50,000), consistent with subdivision (c) of Section 1810.2 and Section 350.24 of Title 13 of the California Code of Regulations.

(E) A contractor that violates this section shall be liable to the department for civil penalties up to the amount of one hundred thousand dollars (\$100,000), and, if the contractor is a commercial requester pursuant to Section 1810.2, the contractor shall also have his or her requester code suspended for a period of five years, or revoked, pursuant to Section 1808.46.

(d) Section 1808.21 does not apply to an attorney if the attorney states, under penalty of perjury, that the motor vehicle or vessel registered owner or driver residential address information is necessary in order to represent his or her client in a criminal or civil action that directly involves the use of the motor vehicle or vessel that is pending, is to be filed, or is being investigated. Information requested pursuant to this subdivision is subject to all of the following:

(1) The attorney shall state that the criminal or civil action that is pending, is to be filed, or is being investigated relates directly to the use of that motor vehicle or vessel.

(2) The case number, if any, or the names of expected parties to the extent they are known to the attorney requesting the information, shall be listed on the request.

(3) A residence address obtained from the department shall not be used for any purpose other than in furtherance of the case cited or action to be filed or that is being investigated.

(4) If an action is not filed within a reasonable time, the residence address information shall be destroyed.

(5) An attorney shall not request residential address information pursuant to this subdivision in order to sell the information to a person.

(6) Within 10 days of receipt of a request, the department shall notify every individual whose residence address has been requested pursuant to this subdivision.

(e) A knowing violation of paragraph (1), (2), (3), (4), or (5) of subdivision (d) is a misdemeanor. A knowing violation of paragraph (1), (2), (3), (4), or (5) of subdivision (d) in furtherance of another crime is subject to the same penalties as that other crime.

Approved _____, 2010

Governor